

ICO call for views on a data protection and journalism code of practice

Introduction

The Information Commissioner is calling for views on a data protection and journalism code of practice (the code).

The Data Protection Act 2018 requires the Commissioner to produce a code of practice that provides practical guidance and promotes good practice in regard to processing personal data for the purposes of journalism. Our intention is for the code to provide practical, pragmatic guidance for journalists on how to comply with data protection legislation, building on the detailed guidance that we have already produced for this sector.

This call for views is the first stage of the consultation process. The Commissioner is seeking input from relevant stakeholders, including media organisations, trade associations, data subjects and those representing the interests of data subjects. We will use the responses we receive to inform our work in developing the code.

The Information Commissioner welcomes feedback on the specific questions set out below. If you would like further information on the call for views, please read our blog post here ([link to blog post](#)), or email journalismcode@ico.org.uk.

The call for views will be open until **Friday 17th May 2019**.

Privacy statement

For this consultation we will publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity (e.g. academics, freelance journalists, sole traders, legal professionals) will be published. We will remove email addresses and telephone numbers from these responses but apart from this we will publish them in full.

For more information about what we do with personal data please see our [privacy notice](#).

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. You can read their [Privacy Policy](#) here.

Section 1: Your views on the code

Q1 We are considering using our current guidance "Data protection and journalism: a guide for the media" as the basis on which we will build the new journalism code. Do you agree or disagree with this approach?

☐ Agree

☒ Disagree

Q2 If you disagree , please explain why?

The ICO intends to use its existing guidance as a basis of the proposed Code. The new Code itself hasn't been written yet – this is just an initial consultation. My main concern is that the scope and applicability of the guidance (and therefore the proposed new Code) is not immediately clear. The existing guidance states that it was created in response to concerns raised by the Leveson inquiry, specifically; "to prepare and issue comprehensive good practice guidelines and advice on appropriate principles and standards to be observed by the press in the processing of personal data" (emphasis added).

Q3 "Data protection and journalism: a guide for the media" is split into three sections:

- "Practical guidance" aimed at anyone working in the journalism sector;
- "Technical guidance" aimed at data protection practitioners within media organisations; and
- "Disputes", aimed at senior editors and staff responsible for data protection compliance.

Do you think we should retain this structure for the code?

☐ Yes

☒ No

Q4 If no, do you have any suggestions about how we should structure the code?

The ICO is now obliged (by section 124 of the DPA 2018) to prepare a Code which contains practical guidance in relation to the processing of personal data for the purposes of journalism but neither 'journalism' nor 'media' are defined. The existing guidance is very much geared towards traditional print media but the TV production sector is crying out for assistance as much of the new framework is problematic for TV production, especially the factual sector. The 'Practical Guidance' in Part 1 specifically, seems to contemplate investigative journalism, the use of intrusive covert methods to "get a story" and 'protecting sources'. These are probably not very helpful examples to the sorts of programmes produced by Tinopolis companies (or indeed TV companies in general).

Q5 Do you think the ICO's existing guidance for journalists addresses the main areas where data protection issues commonly arise?

☐ Yes

☒ No

Q6 If no, what additional areas would you like to see covered?

As stated above, 'journalism' in the wider sense needs to include television more widely, and the guidance should support this.

Q7 The journalism code will address changes in data protection law, including developments in relevant case law. Are there any particular changes to data protection law that you think we should focus on in the code?

the 'special purposes' exemption in Paragraph 26, Part 5 of Schedule 2 of the DPA 2018 is wider than merely journalism. It also covers processing for academic, artistic and literary purposes. Presumably, if Parliament had intended for the Code to extend to the other special purposes, it would have included them within section 124 of the DPA 2018. However, it would be very helpful if the new Code clarifies the extent to which it applies to the production of documentaries or programs which may not be considered journalism in the traditional sense but which may still fall within the special purposes exemption.

Q8 Apart from recent changes to data protection law, are there any other developments that are having an impact on journalism that you think we should address in the code?

Q9 Are there any case studies or journalism scenarios that you would like to see included in the journalism code?

Where a contributor has participated in a programme, which includes their contributing certain special category personal information, which is used in the programme as part of the story/editorial, how are producers to be protected from a withdrawal of consent, given the huge cost of filming and production generally?

Q10 Do you have any other suggestions for the journalism code?

That the code be written to include the various parts of the the journalism sector, construed widely. Namely tv companies as well as print media. Inevitably this would lead to the inclusion of a wider range of examples and application.

Section 2: About you

Are you?

Q11 Are you?

- ☒ A media organisation?
- ☐ A trade association?
- ☐ An organisation representing the interests of data subjects?
- ☐ An academic?
- ☐ An individual acting in a professional capacity?
- ☐ An organisation that regulates press standards?
- ☐ An individual acting in a private capacity (e.g. someone providing their views as a member of the public)?
- ☐ Other?

Please specify:

Tinopolis Group - Independent Producer - Firecracker/Pioneer/Thunderclap/Mentorn

Q12 How did you find out about this survey?

- ☐ ICO website
- ☐ Social media
- ☐ Conference/seminar
- ☐ Trade/professional association
- ☐ Media
- ☐ Word of mouth
- ☒ Other?

Please specify:

PACT email updates

We may want to contact you about some of the points you have raised. If you are happy for us to do this please provide your email address:



Thank you for taking the time to share your views and experience.